

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

LEROY RILEY

Plaintiff,

v.

CHARLES SIMPSON, KERRI CROSS,
DAVID MCCOY, CHARLES M. SHANE
MR. GASTON, sued in there
individual capacities,
DAVID J. GOOD, sued in his
individual and official
capacities

Defendants.

* Civil Action No. 05-172E

* Judge Sean J. McLaughlin
* Magistrate Judge Susan B. Paradise

* COMPLAINT

* Jury Trial Demanded

*

Amended Complaint

Preliminary Statement:

This is a civil rights action filed by Leroy Riley a state prisoner for damages and injunctive relief under 42 U.S.C. § 1983 in violation of Due process of the Fourteenth Amendment of the United States Constitution.

Jurisdiction:

The Court has jurisdiction over plaintiff claims of violation of the Federal Constitutional Rights under U.S.C. § 1331(a) and 1343.

A) PRELIMINARY INFORMATION.

1. Where are you confined? SCI Pittsburgh
2. What sentence are you serving? 6 to 15 years.
3. What Court impose the sentence? Montgomery County Court

B) PREVIOUS LAWSUITS.

4. Have you begun other law suits in state or Federal courts dealing with the same facts involved in this action or otherwise relating to your confinement? No
5. Is there a grievance procedure in this institution? yes
6. What steps did you take? I informed them of the constitutional violation on date: / / ; What steps were taken, No action was I was told it would be handled through the review board.

C) PARTIES.

7. Plaintiff is Leroy Riley, inmate at the SCI Pittsburgh, where the events describe took place.
8. Defendant David Mc Coy acting DATSS, he is one of three appeal board member at Pittsburgh, he is responsible for reviewing all administrative appeals of disciplinary charges filed by Pittsburgh inmates, he is being sued in his official capacities.
9. Defendant Charles Shane, he is one of three board members at SCI Pittsburgh, he is responsible for reviewing all administrative appeals of disciplinary charges filed by Pittsburgh inmates, he is being sued in his official capacities.
10. Defendant Kerri Cross, is a hearing examiner at SCI Pittsburgh she is responsible for conducting disciplinary hearings for prisoner accused of bracking the rules, she is being sued in her official capacities.
11. Defendant Charles M. Simpson, is a correction Captain at SCI Pittsburgh, he is also one of three board members "appeal" responsible for reviewing all administrative appeal of disciplinary charges filed by Pittsburgh inmates, being sued in his official capacities.

12. Defendant Mr Gaston, is a correction officer at SCI Pittsburgh, one of his jobs is to investigate rule violation by Pittsburgh inmates, and conducting write-ups for the violations, He is being sued in his individual capacities.

D) FACTS. DENIAL OF DUE PROCESS:

13. On May 27, 2004 at 0700 hours the plaintiff was removed from his cell in general population at SCI Pittsburgh, for allegedly hitting his cellmate Mr Taylor, 15 minute latter plaintiff was interviewed by Lieutenant Culp, after the interview plaintiff was placed into administrative custody by order of Captain Simpson.

14. The plaintiff was placed into a cell on the punitive segregation unit, into a cell with another inmate serving a punitive segregation sentence.

15. On May 31, 2004 While in administrative segregation the plaintiff received a misconduct report stating that two CSI's were in a location to observe Plaintiff and Taylor arguing about Taylor making noise in the early morning hours, and arguing about plaintiff not using his head-phones, and they also heard the plaintiff threatening Taylor, Taylor also confirm that he was hit.

16. At that point the plaintiff received a form to fill out, to write down his version of the events, and any witness that he wish to call, plaintiff put down witness inmate Chandler as a witness.

17. On June 30, 2004 The plaintiff received a disciplinary hearing in front of defendant Hearing Examiner, Cross, at that point" the plaintiff handed the defendant Cross his witness list and statement of events.

18. Defendant Cross denied plaintiff witness, then after, she read the plaintiff misconduct report, at that point she desided to postpone the hearing to allow an in-camera reliability hearing with C/O Gaston to establish the credibility of the two CSI's.

19. On June 7, 2004 the disciplinary hearing reconvinced, the hearing examiner, "Ms Cross, states to the plaintiff that she had just recently gotten of the phone before the plaintiff arrival and the conversation was in regard to the in camera hearing, and the information that she received is as such," That the in-camera hearing was held on June 4th 2004, and that C/O Gaston gave sworn testimony that his Two CSI,s were in a position to observe as to hear violation, and they reported they heard a distinct sound of someone getting hit then after the hit they heard the plaintiff say " why don't you hit me back", and inmate Taylor confirm that he was hit.

20. At that point the hearing examiner ask the plaintiff, "how do he plead to the charges.

21. At that point the plaintiff informed the H/E, defendant Ms. Cross that do to the new allegation that just came to light that was not on the misconduct report "officers version of events", written prior to the in-camera hearing, that the inconstancy in the CIs version that the plaintiff would like to have the remainder of the hearing postponed in order to call witness, and to marshal a defence.

21. The request was denied, and the plaintiff was found guilty and given 60 da punitive segregation.

22. At that point the defendant H/E Ms. Cross handed the plaintiff his written statement of facts detailing the evidence relied upon.

23. Pursuant to procedures on June 7, 2004 the plaintiff filed a administrative appeal with board member, (PRC) Mr. Simpson, MC Coy, and Mr. Shane, "defendants", pointing out spicific constitutional violations,

24. On 6/9/04 the plaintiff appeal by the PRC board was denied.

25. On 6/8/04 the plaintiff requested written statements, of Taylor version of events for the plaintiff defence, the request was made to Captain Simson, The request was never answerd to, "denied".

June 8th, 2004 the plaintiff by grevience appealed to the Superintendent, A notice was sent back to the plaintiff directing him to follow in according to 801 VIL (3b) see exhibit 1; A1-and 2

801 VIL 3b (see exhibit

27, After the appeal was denied by the Programe Review Committie , On January 12,2004 the plaintiff resubmitted his appeal to the Superintendant Office Mr. Good, this appeal was never responded to nor answerd.

28. Thereafter, after receiving no responce from the Superintendant Office, the plaintiff filed a timely appeal to the Chief Hearing examinars office according to DC ADM 801.

29, On September 14,2004 the plaintiff received a letter from the Chief hearing examiner reporting that the appeal was received and and that the plaintiff failed to include the Superintendant appeal responce, also in "notation" the Chief H/E personaly sent for a copy of the Superintendant appeal responce, The superintendant again faild to respond to the plaintiff and the Chief H/E. see Exhibit B.

30 On September 20,2004 the plaintiff once again received a letter from the Chief H/E requesting that the Superintendant appeal responce, It noted that the appeal may be considered timely becouse of the time consumed by the erroneously directing the appeal at the discretion of the recipient of the next appeal see, Exhibit C.

31. There-after On September 22nd the plaintiff once again filed his appeal to the Superintendant office, this appeal was stamped received on Oct 1,2004, never-the-less the inclose information and the documents that were sent was never returned nor responded to, see Exhibit (D).

32, Within the above date September 22,2004 the plaintiff submitted to the Superintendant, one dated 12/5/04 and the other dated 1/5/05 See Exhibit E and F.

33, Finnaly on January 5,2005 the appeal or request was responded to by the Assistant Superintendant Thomas W. Seivering, he stated that his office never reseived a request nor an appeal of misconduct No. A602109 by the plaintiff.

34. Notably this was not true for the fact two appeals were submitted Exhibit A, and Exhibit D, were stamp "received" by his office.

35. As a result of the Superintendant failure to respond to this plaintiff appeal, the plaintiff had no other remedy but to file t his complaint directly thereby "exhausting his administrative remedies under 42 U.S.C.§ 1997e(a).

E) Clames of relief:

36. Defendant Mr Simpson, Mr McCoy, and Shane, in refusing to over turn plaintiff disiplinary conviction dispite there knowledge of the discribe Due Process violation, and failing to correct them. The violation was obviously on "in" the record, denied the plaintiff of Due Process of law in violation of the fourteenth amendment of the United States Constitution, by having Captain Simpson sit on the review board denied the plaintiff inpartial tribunal.

36. Defendant Captain Simpson, for procedure violation, for atho- rizing the administrative custody of the plaintiff under punitive condiction by placing him into a cell with another inmate serving ²⁰ punitive sentence, constituted atypical hardship, dening the plaintiff of due process, For failure to act on the unconstitutional acts of his subernates and failure to be responsable for preventing it, constituted delibrat indeffrence further dening the plaintiff of due process of law in violation of the United States Constitution.

37. Defendant Ms Cross actions for refusing to call plaintiff wit- ness after the reconstructed testimony by the C.S.I.s. By receiving this information by phone, and failing to review this material evi- dence (in-camera) documenting the investigater assesment of the credibilty of the C.S.I.s. The evidence did not meet the propondence of the evidence rule, failure to give specific facts finding, detailing the evidence relied upon to support her verdict, and not just stating the inmate is guilty as written, denied the plaintiff of due process of law in violation of the fourteenth amendment of the United States Constitution.

38. Defendant Mr Gaston, action for his inderect particpation of of the plaintiff due process right violation, by seting in motion a series of events that he know or reasonable should have cause a constitutional violation, also technical error in his report affected the plaintiff ability to understand and defend the charge's, denied the plaintiff due process of law in violation of the Fourteen Amendment of the United States Constitution

39. Superintendent Good for failure to respond to repeated request to evaluate plaintiff final review of his misconduct that he should have reasonable known would have caused a violation of the plaintiff Constitutional rights of the fourteenth Amendment.

40. The plaintiff has no other plain, adequate or complete remedy at law to redress the wrongs described herein, plaintiff has been and will continue to be irreparably injured by the conduct of the defendant unless this court grants the declaration and injunctive relief which plaintiff seeks.

WHEREFORE, Plaintiff respectfully prays that this Court herein enter judgement granting plaintiff:

(a) A declaration that the acts and omissions described herein violated plaintiff right under the Constitution and laws of the United States.

(b) Issue an injunction ordering Superintendent Mr. Good to expunge plaintiff disciplinary conviction describe in this complaint from his institutional record.

(c) Compensatory damage in the amount of \$ 1000.00 dollars against each defendant, jointly and severally for time and lost wages

(d) ~~Punitive~~ damages in the amount of \$2000.00) Two thousand dollars against defendant Mr. Gaston.

(e) A jury trial on all issues triable by jury.

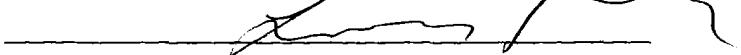
Plaintiff cost in this suit.

(f) Any additional relief this Court deems just and proper and equitable.

Date:

7/2/06

Respectfully submitted



I swear under penalty of perjury that
the foregoing is true and correct

Misconduct Administrative Procedures
Document

Misconduct Administrative Proceeding

Procedure

Exhausting of Administrative

Remedies 42 U.S.C § 1997 e(k)

FORM DC-141 PART 1
Rev 3/00COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

A 505125

 MISCONDUCT REPORT OTHER DC-ADM 801 INFORMAL RESOLUTION

DC Number	Name	Institution	Incident Time 24 Hr. Base	Incident Date	Date of Report
Quarters	Place of Incident				

OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W)

DC Number	Name	I	W	DC Number	Name	I	W

MISCONDUCT CHARGE OR OTHER ACTION

Housed under Close Administrative Custody. DC ADM-802, Article 6, Section A, Subsection 1-F

STAFF MEMBER'S VERSION You are being placed on Close Administrative Custody per order of

CPT [Signature] This is being done according to DC ADM-802

Article 6, Section A, Subsection 1-F, You have been charged with or are under investigation for a violation of facility rules and there is a need for increased control pending disposition of charges or completion of the investigation.

File # [Redacted] Date [Redacted] [Signature] That [Redacted]

For [Redacted] [Signature]

Inpartial Tribunal Direct involvement in investigation
By ordering Administrative Custody and signs on paper
Not Documenting charges for Detention on
this Report

IMMEDIATE ACTION TAKEN AND REASON

PRE-HEARING CONFINEMENT						
IF YES						
<input type="checkbox"/> YES	TIME	DATE	FORMS GIVEN TO INMATE			
<input type="checkbox"/> NO			<input type="checkbox"/> REQUEST FOR WITNESSES AND REPRESENTATION	<input type="checkbox"/> INMATE'S VERSION		
REPORTING STAFF MEMBER SIGNATURE AND TITLE			ACTION REVIEWED AND APPROVED BY RANKING C.O. ON DUTY		DATE AND TIME INMATE GIVEN COPY	
			[Signature]		DATE	TIME 24 HOUR BASE
YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER DATE TIME			MISCONDUCT CATEGORY		Signature of Person Serving Notice	
			<input type="checkbox"/> CLASS 1 <input type="checkbox"/> CLASS 2		[Signature]	

NOTICE TO INMATE

You are scheduled for a hearing on the allegation on the date and time indicated or as soon thereafter as possible. You may remain silent if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law, if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found guilty of a Class 1 misconduct, any pre-release status you have will be removed.

WHITE — DC-15

YELLOW — Inmate

PINK — Reporting Staff Member

GOLDENROD — Deputy Superintendent Facility Management

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

A 602109

FORM DC-141 PART 1

Rev 3/00

 MISCONDUCT REPORT OTHER DC-ADM 801 INFORMAL RESOLUTION

DC Number FQ8672	Name Riley Leroy	Facility SC1	Incident Time 24 Hr. Base 1/12 0700	Incident Date 5/31/04	Date of Report 5/31/04
Quarters A1A1015	Place of Incident D228				

OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W)

DC Number FN5838	Name Taylor, William	I	W	DC Number	Name	I	W

MISCONDUCT CHARGE OR OTHER ACTION

A Class 1 #1 - Assault / A. Class 1 #17 - Threaten

another person.

STAFF MEMBER'S VERSION

From April 1, 2004 through May 27, 2004, inmates R. I. FQ8672, W. Taylor, FN5838, had been having arguments, put downs, and Taylor making noise in the early morning, and later at night. During this time period, Riley made verbal threats of violence to Taylor. On May 27, 2004, at approximately 0700 hrs., Riley struck Taylor in the right side with his closed fist as Taylor was lying on his bed.

Information for this incident was obtained from C51, 1838, DC ADM 801, C51s were either in a position to observe the violation or have been reliable in the past.

The date of incident differs from the date of report due to investigation of the incident.

IMMEDIATE ACTION TAKEN AND REASON

PRE-HEARING CONFINEMENT		Form 100, Resolution Only	
IF YES			
<input checked="" type="checkbox"/> YES	TIME 1838	DATE 5-31-04	FORMS GIVEN TO INMATE
<input type="checkbox"/> NO			<input type="checkbox"/> REQUEST FOR WITNESSES AND REPRESENTATION <input checked="" type="checkbox"/> INMATE'S VERSION

REPORTING STAFF MEMBER SIGNATURE AND TITLE <i>John C. T. C. T.</i>		ACTION REVIEWED AND APPROVED BY RANKING C.O. ON DUTY <i>Matthew J. S. S.</i>		DATE AND TIME INMATE GIVEN COPY DATE 5-31-04 TIME 24 HOUR BASE 1838	
YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER DATE 6-2-04 TIME 0900		MISCONDUCT CATEGORY <input checked="" type="checkbox"/> CLASS 1 <input type="checkbox"/> CLASS 2		Signature of Person Serving Notice <i>A. Joseph C. T.</i>	

You are scheduled for a hearing on the allegation on the date and time indicated or as soon thereafter as possible. You may remain silent if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law, if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found guilty of a Class 1 misconduct, any pre-release status you have will be removed.

WHITE — DC-15

YELLOW — Inmate

PINK — Reporting Staff Member

GOLDENROD — Deputy Superintendent Facility Management

DC-141 PART 2A Rev. 6-84 INMATE REQUEST FOR REPRESENTATION AND WITNESSES		COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF CORRECTIONS		
DC Number 28672	Name R. Taylor	Facility SCI-A	Date 5/31/06	Number as on Part I A 602104
<p>You have been charged with a misconduct. You may request assistance and/or witnesses to appear at your hearing by completing the section(s) below.</p> <p>In order to have assistance or witnesses at your hearing, you must complete this form and present all copies to one of your housing officers no later than 9:00 a.m. the first working day after you receive notice of the misconduct.</p>				
<p>Assistance: <input type="checkbox"/> I do not request assistance <input type="checkbox"/> I request assistance by <u>FWmntr Chandler D-Block (3)</u> (The person requested must be willing to assist you)</p> <p>Witnesses: You may request witnesses in accord with DC-ADM 801. State the relevance and importance of the testimony the witness will give</p>		<p>DO NOT WRITE IN THIS SECTION For Use by Hearing Examiner</p> <p>Witness permitted? If not, why not? <u>No</u> - not needed to establish Guilt/innocence</p> <p>Witness permitted? If not, why not? <u>Not applicable</u></p> <p>Witness permitted? If not, why not? <u>Not applicable</u></p>		
<p>1. Name of Witness: <u>Chandler</u> No. <u>0</u> Quarters <u>D-Block</u> Why is this person's testimony relevant and important? <u>I CONFIDED in him that Taylor was being DISRESPECTFUL AND this witness TELL ME THAT THIS LOOK LIKE A SET UP TO SET ME A MISCONDUCT BY TAYLOR AND OUT OF THAT BAD SITUATION</u></p>				
<p>2. Name of Witness: <u>None</u> No. <u>0</u> Quarters Why is this person's testimony relevant and important? <u>He HEARD ABOUT THE TV ON AT NIGHT BUT HE NEVER Heard ME Threatening MR Taylor</u></p>				
<p>3. Name of Witness: <u>None</u> No. <u>0</u> Quarters Why is this person's testimony relevant and important?</p>				
<p>Inmate's Signature <u>Robert Taylor</u></p>		<p>Hearing Examiner's Signature <u>K. Cross</u></p>		
<p>This section to be completed by Housing Officer only Received completed form <u>5/31/06</u> hours <u>6:10 AM</u> Time Date</p>				
<p>Housing Officer's Signature <u>Robert Taylor</u></p>				

43
REQUIS TO STAFF & Before the Ban

DC-141 PART 2 C		COMMONWEALTH OF PENNSYLVANIA		
Rev. 2-02 HEARING SUPPLEMENT INMATE VERSION AND WITNESS STATEMENTS		DEPARTMENT OF CORRECTIONS		
DC Number	Name	Facility	No. from PART I	
603672	L. L. Loring	SCI	A602104	
INMATE'S VERSION On 4/20/04 6:30 AM I ask Mr Taylor make He please Report the lights and place of others in the cell. by not turning on the lights was making noise to him. His Response NO I asked him what to do so that night I left my TV on all night. Next day Taylor ask to him more. More Granted, Taylor informed me he could not live anymore to agree with so we agreed to work things out. Everything was fine for 2 days until Tuesday 26 th 2004 Taylor turn the light out and Rattling pipes at 6 AM. Wending same, morning I ask Taylor I thought we had an agreement. He said (you do your time and I'll do mine) That evening I ask him do he have the smokes He promise to give me. He said no! I ask him why. He said I don't have to explain nothing to him. We where loud and we both said some things out of anger. There where no ticket the same night ago as I did not put my headphones on. He called the guard at 1 AM the guard said it will be resolved in the morning. 6 AM the guard call down the corridor said we will be separated by noon I went back to my cell and ask my cell mate a question He said fuck me I said fuck you He jump of the Bed and run to the Police and said I hit him. The an attack is for 3500. For hitting him a 3500. I said I did not. That I threatening him at no time did I threatening him. Mr Taylor had the green light to move at any time 30 days he didn't with me in peace. Mr Taylor broke that peace, no! I. We both said things to each other out of anger. That could have secret meaning.				
For assault I went back to my cell. The Justice I ask Mr Taylor was: Why did He lie on his Request to Staff Dated 4-23-04 that I threatening to punch him in the face (he gonna be saying in an effort to be moist) He admitted it was a lie I said fuck you, fuck me, I call him a Bitch He jump of the bed and 2nd down and told the green one the lie that I hit him. "A Blatantly" Mr Taylor. This is lying in the same cell for over 30 days with someone he is break off. That is a violation of Civil right in the Title 42 of the United States.				

DC-141 - Part 2B		COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF CORRECTIONS			
Rev. 6-84		Pg 1 of 2			
DISCIPLINARY HEARING REPORT					
DC Number	Name	Facility	Hearing Date	Hearing Time	No. from Part 1
FQ8672	RILEY, LEROY	SCIP	6-7-04	10:5	A602109
INMATE PLEA	<input type="checkbox"/> Guilty <input checked="" type="checkbox"/> NOT Guilty	<input type="checkbox"/> No Plea <input type="checkbox"/> Other	Verdict	<input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Not Guilty	

HEARING ACTION

CHARGES 1,17

FINDINGS OF FACT, VERDICT, AND SANCTIONS IMPOSED

6-3-04 - Riley pleads NOT GUILTY - Submits written version
Examiner notes hearing is continued to allow CSI to conduct reliability hearing with charging staff member.

On Friday, June 4, 2004 an incamera hearing was conducted with S. Boston. The purpose of the hearing was to establish the reliability of the 2 CSI's used. S. Boston gave sworn testimony that his 2 CSI's were in a position to observe as they could see what happened. In addition, both CSI's have provided reliable information in the past and the S. explained in detail what was provided and how it proved to be reliable. According to the S., both CSI's were aware of and heard Riley and Taylor arguing about moving to another cell. During the argument, the CSI's report they heard a distinct sound of one inmate hitting another. Immediately following, the CSI's state - they heard Riley saying, "Why don't you hit me back?" Examiner notes both CSI's provided corroborating statements concerning this incident. In addition, Taylor confirmed that Riley struck him during the argument.

All information shared with Riley.

Riley - again pleads Not Guilty

<input type="checkbox"/> YES	<input type="checkbox"/> NO	The inmate has heard the decision and has been told the reason for it and what will happen.
<input type="checkbox"/> YES	<input type="checkbox"/> NO	The circumstances of the charge have been read and fully explained to the inmate.
<input type="checkbox"/> YES	<input type="checkbox"/> NO	The opportunity to have the inmate's version reported as part of the record was given.
<input type="checkbox"/> YES	<input type="checkbox"/> NO	The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.

SEE APPENDICES

VERSION
Witness sheetNAME(S) OF HEARING EXAMINER/COMMITTEE
(TYPED OR PRINTED)

Hearing Report and all appended information must be signed. Signature indicates finished report with appendices.

Kerri Cross

SIGNATURE OF HEARING EXAMINER/COORDINATOR

DC-141 Part 2B

Rev. 6-84

DISCIPLINARY HEARING REPORT

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF CORRECTIONS

Pg 2 of 2

DC Number	Name	Facility	Hearing Date	Hearing Time	No. from Part 1
FQ 3672	RILEY	SCI P	6-7-04	1015	A603109
INMATE PLEA	<input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Not Guilty	<input type="checkbox"/> No Plea <input type="checkbox"/> Other	Verdict	<input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Not Guilty	

HEARING ACTION

CHARGES 1,17

FINDINGS OF FACT, VERDICT, AND SANCTIONS IMPOSED

The examiner accepts report and statements from 2 CSI's who have been established as reliable to be more credible than Riley's denial. I find the 2 CSI's heard a distinct sound of one inmate striking another and Taylor confirmed that during the argument - he was hit. I believe Riley struck Taylor during an argument constituting

#1 -

Based on Report

Guilty #1) 60 day DCS

Note The Misconduct Report And This Report Gives two
Different Version of events Reconsideration Summary of 2.055

AND SIR you know AND I know you CAN NOT HEAR A
Hit (Body Shot) From one cell to another Dismiss # 17
try it!

<input type="checkbox"/> YES	<input type="checkbox"/> NO	The inmate has heard the decision and has been told the reason for it and what will happen.	SEE APPENDICES <input type="checkbox"/>
<input type="checkbox"/> YES	<input type="checkbox"/> NO	The circumstances of the charge have been read and fully explained to the inmate.	
<input type="checkbox"/> YES	<input type="checkbox"/> NO	The opportunity to have the inmate's version reported as part of the record was given.	
<input type="checkbox"/> YES	<input type="checkbox"/> NO	The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.	

NAME(S) OF HEARING EXAMINER/COMMITTEE
(TYPED OR PRINTED)

Hearing Report and all appended information must be signed. Signature indicates finished report with appendices.

Kelli Cross

Kelli Cross

SIGNATURE OF HEARING EXAMINER/COORDINATOR

6/10/04 (D)

DC-141 PART II E
MISCONDUCT HEARING APPEALCOMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

DC Number	Name	Institution	No. from PART I
FD 8672	Leroy Riley	SCI	

I was found guilty of misconduct # A 602109 on 6/7/04 (date) by the Hearing Committee/Examiner, and I wish to appeal that decision on the following grounds: Check Area(s) Involved

a. The procedures employed were contrary to law, Administrative Directive 801, or to the ICU

Consent Decree:

*CST Statement Dont Support Original Facts
STATEMENTS CSI GIVEN ON 2 STATES DONUT MATCH EACH OTHER*

b. The punishment is disproportionate to the offense;

See CST Simpson Statement Interview Taylor

c. The evidence was insufficient to support the decision.

ITS HIGHLY LIKELY THAT TAYLOR CONFERRED WITH CSI ON CORROBORATING STORY

Below is a brief statement of the facts relevant to my claim(s). It includes the identity of all persons who may have information which may be helpful in resolving this matter.

ON 5/27/04 Cort Simpson took A statement From Riley and I pointedly TAYLOR, There WAS NO statement by Taylor of Threats Argument - cell change - statement (why dont you hit me back, 5/31/04 - DC141 CSI heard Threat, TV playing, earphone, CSI Report about math and Simpson and Taylors written statement - Base on Report DC141 Hearing was held 6-3-4 - continued in cam hearing 6/6/04 Boston New DC141 2B as a result (slightly erased) CSI Head Hitting sound - Fighting over cell change - words by Riley, why dont you hit me back. Absolutly this new statement do not match statement 5/31/04 and 5/27/04 absolutly none of those new statement where made prior to First Misconduct Hearing, it was establish for the 2nd The contradiction discrepancy or of magnitude putting % to CSI Reliability into Question. Moreover its said that 2 or more contradic contradiction discrepancy can render statement false and negate Reliability also There no independent basis to judge the Reliability of CSI There no sign statement But am do have % Boston statement to which the statements dont match % speaking to CSI it dont match prior statement not consistent with present also not to be able to face your accusal denied Due process of law 14th amendment so Basically the word of off Boston, and he never told a lie " Its all most impossible to here someone through one pouch over Argument And TV Playing while the whole, spills lock down Any number of things can make the same sound - like jumping of the Bed feet hitting the ground as what Taylor, And what man you know going to stand their and say (why dont you hit me back " Chash " me and Taylor the only one is in that cell and the only one in The jail that know what happen) Mr Taylor walk out of that cell - without un hit and told the guards a lie I m The Victim Taylor The BAD Guy

DC-141 PART II E
MISCONDUCT HEARING APPEALCOMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

DC Number	Name	Institution	No. from PART I
1/08672	LEROY RILEY	SCI P.	Page 2

I was found guilty of misconduct # A602109 on 6/7/04 (date) by the Hearing Committee/Examiner, and I wish to appeal that decision on the following grounds:

Check Area(s) Involved

a. The procedures employed were contrary to law, Administrative Directive 801, or to the ICU Consent Decree;

b. The punishment is disproportionate to the offense;

c. The evidence was insufficient to support the decision.

Below is a brief statement of the facts relevant to my claim(s). It includes the identity of all persons who may have information which may be helpful in resolving this matter.

This is a classic case of Real Rood the Dum. In mate to (I don't know he would need two CSI to corroborate what each other Heard why? Because if it was just one CSI then where back to where they started - 1 CSI say He did Do it and Riley denying it But with Two % to Gaston, got the jump - what of the Chances of finding two CSI's 7AM Lock Down Hearing the same thing if they where not next door (CSI) with the Being us Back to what they Heard. Report 5/27/04 Capt Simpson interview there no mention the fight argument only on about nose. The ARGUMENT was about a Request slip giving to the sergeant at 0710 AM by Taylor and what was on it and also Taylor jumping of the bed and a number of things could make a jumping sound as a hit. Also it was very convenient to take through in (Why dont you hit me Back) nail in the collar Compare with the Original Statement and CSI (CSI is a fabrication) The question is who are they ~~CSI~~ ^{not} there they where they Heard the 30 sec Argument also it possible they had the opportunity to converse with the CSI on their Story 5 days 5/27 - 6/1/4 And the next door LABOR His best friend" And How do we know the 2 CSI Story CORROBORATE none of us was there when it was given But % to Gaston AKA John the Baptist and He would never tell a lie and there no written statement! How can I tell the truth and have a fair hearing when % to Gaston Has the power CREA' in a fire and nobody say Rains them, Testimony in fire post CSI The question is who gave it and in this case who is telling the truth within this record. I REQUEST AN INDEPENDENT INVESTIGATION Because is not free - That is my express

A 1 A 1015
⑨

DC-141 Part 3

Program Review

Committee Action

 Misconduct AppealCOMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

Revised 6/02

 Periodic Review Other

DC Number	Name	Facility	Date of Review	No. from DC-141 Part 1
FQ 8672	Leroy Riley	SCI-P	6/9/04	A 602109

Program Review Committee's Decision and Rationale

Points of Appeal

A: Procedures: Inmate claims procedures not followed

B: Punishment: Claims should not have been sanctioned.

C: Evidence: Claims CST's were not iterable.

Decision of PRCC: Procedures were followed. H/E had several hearings to establish creditability of CST's. H/E found evidence more reliable than testimony of inmates. Sanctions imposed appropriate for charge. Possession
Possession

Sustain.

Decision Relative to Hearing Examiner's Verdict

Not Applicable Sustain Sustain-Amend Refer Back for Further Study Exonerate Inmate

Names of Program Review Committee Members	Signatures	Date
David McCoy, Acting DATSS	<i>David McCoy</i>	6/9/04
Charlesiv Stinson, Principal	<i>Charlesiv Stinson</i>	6/9/04
Charles M. Shene, Principal	<i>Charles M. Shene</i>	6/9/04

DC-141 Part III
90 Day ReviewCommonwealth of Pennsylvania
Department of Corrections

BIA 4008

DC Number	Name	Inst.	Rvw. 90 Day	# of Review
FQ8672	INMATE RILEY	PIT	08/25/2004	1

Program Review Committee's Decision and Rationale

Initial Reason for Confinement

Inmate Riley was placed on Close Administrative Custody per order of Capt. Simpson. This was done according to DC ADM-802, Article 6, Section A, Subsection 1-F. He is charged with or is under investigation for a violation of facility rules and there is a need for increased control pending disposition of charges or completion of the investigation. On 6/7/2004 Inmate Reily RECD 60 days DC EFF 5/31/04 thru 7/29/2004 for #1, assault. On 7/23/2004 Inmate Riley was placed under Close Administrative Custody in accordance with DC ADM-802, Article 6, Section A, Subsection and per order of Capt. McConnell. He is a danger to himself or others.

EXHIBIT 9B

PRC Comments

On 8/4/2004 Inmate Riley met with PRC due to his placement in AC status upon completion of his DC time. He is to be seen in 2 weeks. ADDENDUM: Based upon all available information, including a recommendation by the RHU staff, release to population effective 8/11/04.

cc: Capt. McConnell, Ms. Sorbin

Decision Relative to Hearing Committee's Verdict

<input checked="" type="checkbox"/> Not Applicable	<input type="checkbox"/> Sustain	<input type="checkbox"/> Sustain-Amend	<input type="checkbox"/> Refer Back for Further Study	<input type="checkbox"/> Exonerate
Names of Program Review Committee Members			Signatures	Date
Paul J. Stowitzky, Deputy Supt.			<i>Stowitzky</i>	8-19-04
Marlene M. Stewart, CCPM			<i>Marlene M. Stewart</i>	8/13/04
Pamela K. Teeter, Captain			<i>Capt PK Teeter</i>	8-17-04

EXHIBITS

~~Exhibit H & Adminstrative Changes
4/28/2006~~

SCI PITTSBURGH

DC-804

Part 1 JUN 08 2004

SUPERINTENDENT

OFFICIAL INMATE GRIEVANCE

Exhibit(A)

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001-0598

FOR OFFICIAL USE ONLY

85969

GRIEVANCE NUMBER

TO: FACILITY GRIEVANCE COORDINATOR	FACILITY: SCI P	DATE: 6/16/04
FROM: (INMATE NAME & NUMBER) LEROY RILEY FQ8672	SIGNATURE of INMATE: LEROY RILEY	
WORK ASSIGNMENT: Nursing	HOUSING ASSIGNMENT: A1 A1015	

INSTRUCTIONS:

- 1 Refer to the DC-ADM 804 for procedures on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. List in Block B any actions you may have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

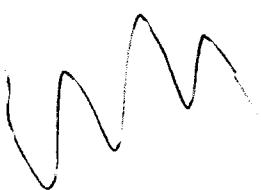
A. Provide a brief, clear statement of your grievance. Additional paper may be used, maximum two pages.

(6/16/04) I was found guilty of a class I assault misconduct (I/o Easton was the investigating officer DC1411 602109)

I was found guilty Based on ESI claims to Being in that Location to Hear an Argument and the sound of someone Being Hit I know this can not be true because this incident took place at 0200 5/27/04 And the Jail was lock down for count C/o Easton claims a CSE corroborated their Story match There no sign statement or video Recorder CSE to substantiate these claims I AM Requesting An independent investigation of these 2 CSE If They truly exist and where where they Passion when They Heard the Argument This is not fair and A miscarriage of Justice I am Being Denied Due Process under the 14th Amendment to have witness come forth

B. List actions taken and staff you have contacted, before submitting this grievance.

APEAL Pending



Your grievance has been received and will be processed in accordance with DC-ADM 804.

Signature of Facility Grievance Coordinator

Date

Exhibit (A2)



(12)

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
SCI-PITTSBURGH
(412) 761-1955
Date: June 8, 2004

SUBJECT: Grievance Rejection Form

TO: RILEY, Leroy EQ8672

FROM: Carol A. Scire
Facility Grievance Coordinator

FOR OFFICIAL USE ONLY

85969

GRIEVANCE NUMBER

The attached Inmate Grievance is being returned to you because you have failed to comply with the provision(s) of DC ADM 804, Inmate Grievance System:

- 1 Grievances related to the following issues shall be handled according to procedures specified in the policies listed and shall not be reviewed by the Facility Grievance Coordinator:
 - a. DC ADM 801, Inmate Disciplinary and Restricted Housing Unit Procedures.
 - b. DC ADM 802, Administrative Custody Procedures.
 - c. Other policies not applicable to DC ADM 804.
- 2 Block B must be completed, as per the instruction #3 of the Official Inmate Grievance Form.
- 3 The grievance does not indicate that you were personally affected by a Department or facility action or policy.
- 4 Group grievances are prohibited.
- 5 The grievance was not signed and/or dated.
- 6 Grievances must be legible and presented in a courteous manner.
- 7 The grievance exceeded the two (2) page limit. Description needs to be brief.
- 8 Grievances based upon different events shall be presented separately.
- 9 The grievance was not submitted within fifteen (15) working days after the events upon which claims are based.
- 10 You are currently under grievance restriction. You are limited to file one (1) grievance every ten (10) working days. You filed grievance # on. You may file your next grievance on .
- 11 Grievance involves matter(s) that occurred at another facility and should be directed by the inmate to the appropriate facility.
- 12 The issue(s) presented on the attached grievance has been reviewed and addressed previously.

NOTE: Please use the assigned grievance number when resubmitting your grievance.

Exhibit (B)
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

Office of the Chief Hearing Examiner
1451 North Market Street
Elizabethtown, PA 17022

INMATE NAME: [REDACTED]

INMATE #: [REDACTED]

INSTITUTION: [REDACTED] **Misconduct Number:** A602109

FROM: Robert S. Bitner
Chief Hearing Examiner **DATE :** September 14, 2004

This is to acknowledge receipt of your appeal to final review of the above numbered misconduct.

In accordance with DC ADM 801, VI L, 3b, inmates appeal for final review of their misconducts are responsible for providing the Chief Hearing Examiner with a brief statement relative to issues and any available paperwork or documentation relevant to the appeal. A proper appeal for final review should include photocopies of the Misconduct Report, Hearing Examiner's report, the Inmate Version and Witness forms (if applicable), Appeal to PRC, PRC Response, Appeal to Superintendent, and the Superintendent's response.

Your appeal to final review failed to include one or more of the documents necessary to complete final review. Accordingly, my office has contacted your institution to request copies of the entire record of this misconduct as well as appeals at the institution level.

This notice is to advise you that, although we have received your appeal, the response at final review will be delayed pending receipt of the records requested from the institution. Your appeal will be reviewed and responded to within seven (7) working days of receipt of all necessary records for review pursuant to DC ADM 801, VI L, 3c.

ADDITIONAL COMMENTS:

Sent for a copy of the Superintendent's appeal response.

EXHIBIT (C)

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
1451 N. MARKET STREET
ELIZABETHTOWN, PA 17022

OFFICE OF THE
CHIEF HEARING EXAMINER

September 20, 2004

Leroy Riley, FQ-8672
SCI Pittsburgh

Re: DC-ADM 801 - Final Review
Misconduct No. A602109

Dear Mr. Riley:

Your appeal of the above-referenced misconduct has been referred to this office for review. However, our inquiry into this matter reveals that you have not yet appealed to the Superintendent of your institution as required by DC-ADM 801. Until this appeal is completed, final review cannot be granted. Upon receiving the response from your appeal to the Superintendent, you may once again submit a timely written appeal for final review.

This response does not grant you a right to an appeal if it would otherwise be untimely to pursue that appeal. However, in evaluating the timeliness of any appeal you submit, the time consumed by erroneously directing your appeal to this office may be disregarded at the discretion of the recipient of your next appeal.

Sincerely,



Robert S. Bitner
Chief Hearing Examiner

RSB:krc

pc: Superintendent Good

"Our mission is to protect the public by confining persons committed to our custody in safe, secure facilities, and to provide opportunities for inmates to acquire the skills and values necessary to become productive law-abiding citizens; while respecting the rights of crime victims."

EXHIBIT (D)

RECEIVED

OCT 01 2004

Superintendent

Form DC-135A

Commonwealth of Pennsylvania
SOL Pittsburgh
Department of Corrections

INMATE'S REQUEST TO STAFF MEMBER

Mr Good

INSTRUCTIONS

Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.

1. To: (Name and Title of Officer)

2. Date:

8/25/04

3. By: (Print Inmate Name and Number)

LEROY RILEY F08670

4. Counselor's Name

Mr. S. S. S.

Inmate Signature

5. Unit Manager's Name

Mr. H. H. H.

6. Work Assignment

No work

7. Housing Assignment

B2 3 1016

8. Subject: State your request completely but briefly. Give details.

Please Read instructions
Dinner 15

9. Response: (This Section for Staff Response Only)

To DC-14 CAR only To DC-14 CAR and DC-15 IRS Staff Member Name _____ / _____ Date _____
Print _____ Sign _____

Exhibit -(E)

Leror Riley FQ 8672

Superintendent Officie
SCI Pittsburgh
P.O. Box 99901
Pittsburgh, Pa. 15233

Date 12/5/04

Dear Sir,

Good day, On are about / / , I filed for a review of my misconduct I received on 7/28/2004 they had informed me that it had to go through the Superintendent office first. On are around / / I sent this information to you along with my complaint and documents pertaining to the misconduct them. I did not receive a responce back from your office. Again on are around / / I informed you that I did not received a responce from your office I'm still waiting to hear from you. I will wait a just a few more days for your responce to this request, if I do not here back from you, I will have no choice but to send it back off to the Chief hearing examiner with out your responce.

Issue:

I was wrongly accuse of hitting inmate Mr Taylor. The evidence against me was fabracated, I got a misconduct back saying two CSIs were in a location to observe the violation. I know in my soul this is not true, for 1, I did not strike Mr taylor. 2, This took place at 6:am the jail was lock down at that time, no one was out as to see or hear. 3. You can not hear some one getting strike in there side or mid siction through thouse thick cell walls 'try it you'll see" If there were two CSIs they would of have to had been next door as to hear, but it's still imposable. 5 The misconduct report don't match the (the two CSIs change there statements) one from the misconduct hearing (In-camera report) 6. The hearing examiner never reviewed the in-camera report, she took this information over the phone information like where were the CSI located at the time

EXHIBIT (F) *Superintendent Office*

Form DC-135A

INMATE'S REQUEST TO STAFF MEMBER

*Superintendent*Commonwealth of Pennsylvania
Department of Corrections

INSTRUCTIONS

Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.

1. To: (Name and Title of Officer)	2. Date:
3. By: (Print Inmate Name and Number)	4. Counselor's Name
<i>LEROY RILEY #Q8672</i> <i>LeRoy Riley</i>	<i>SORBIN</i>
5. Unit Manager's Name	6. Work Assignment
7. Housing Assignment	8. Subject: State your request completely but briefly. Give details.

Inmate Signature

Block worker

Holloc 10

B1605

Please Read what's inclosed

RECEIVED
SCI-PITTSBURGH
JAN 05 2005
SUPERINTENDENT
ASSISTANT II

*ISSUE
OVER TURN
DISAPPROVING
Conviction*

9. Response: (This Section for Staff Response Only)

To DC-14 CAR only To DC-14 CAR and DC-15 IRS Staff Member Name _____ / _____ Date _____
Print _____ Sign _____

Exhibit - (6)



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
SCI-PITTSBURGH
(412) 761-1955
January 5, 2005

Subject: Misconduct Appeal

To: Leroy Riley, FQ-8672

From: Thomas W. Seiverling
Superintendent Assistant

This is in response to your communication to Supt. Stowitzky. I have reviewed both your institutional record and the files in the superintendent's office and I can find no indication that any appeal of misconduct #A602109 was ever received by the superintendent. As of this date, the time period for appealing this issue has long since expired.

TWS

cc: DC-15